

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

04 11789 RCL

MARLENE JOHANSEN

Plaintiff

v.

UNITED STATES OF AMERICA

Defendant

MAGISTRATE JUDGE Rbc

Civil Action No.

RECEIPT # 58011
AMOUNT \$ 0
SUMMONS ISSUED yes
LOCAL RULE 4.1 +
WAIVER FORM +
MCF ISSUED +
BY DPTY. CLK. FOW
DATE 8/17/04

COMPLAINT

Now comes the Plaintiff, Marlene Johansen, and complains of the Defendant United States of America as follows.

JURISDICTION

This cause of action is based upon 28 USCA Section 2410 which provides that the United States may be named as a party in an action to quiet title over property where the United States has a lien. Jurisdiction is provided by 28 U.S.C. Section 1340 which provides that the Court shall have original jurisdiction over any civil action for an action arising under any Act of Congress providing for internal revenue the recovery of any Internal Revenue Tax alleged to have been collected without authority.

PARTIES

1. The plaintiff, Marlene Johansen (hereinafter referred to as "Ms. Johansen") is an individual who resides at 71 Pleasant Street, Stoneham, MA.

2. The defendant is the United States of America.

FACTS

3. Marlene and Ralph Johansen were married on November 29, 1980.

4. On or about March 27, 1984, Marlene and Ralph Johansen bought 71 Pleasant Street in Stoneham, Massachusetts taking title as Tenants by the Entirety (the "Home") (Please see Exhibit 1).

5. Mr. Johansen filed for divorce on November 16, 1998.

6. On March 21, 2001 the Honorable Mary Anne Sahagian, Justice of the Massachusetts Probate and Family Court ruled (the "Ruling") (Please see Exhibit 2.) that the home had a value of \$325,000. and was subject to encumbrances of a first mortgage with a balance of \$144,648. and a second mortgage with a balance of \$7,964.73.

7. The Ruling also found that Mr. Johansen had a liability to the Internal Revenue Service in the amount of \$171,379. and the Massachusetts Department of Revenue of \$28,333. (and an undetermined additional amount).

8. The Ruling held that:

The only real asset that the parties have, other than the Husband's defined benefit pension plan, is the marital home which has equity of approximately \$172,387.00."

...
Unfortunately, the only asset available to the parties to address the enormous tax liability is the marital home. Accordingly, the home must be sold and proceeds used for this purpose.

9. Marlene Johansen filed a timely appeal of the Probate and Family Court's ruling and further filed a Motion for a Stay of the Divorce Judgment.

10. On June 7, 2001, Justice Dreben of the Massachusetts Appeals Court sitting as a single justice, issued an order stating (Please see Exhibit 3.):

Paragraphs 3-7 of the divorce judgment dated March 21, 2001 are stayed pending determination of the defendant's appeal. Whether the defendant's interest may be reached by the IRS may involve additional issues not determined or determinable by the Probate Court.

11. That part of the Ruling which required the division of Ralph Johansen's pension plan was not stayed.

12. Marlene and Ralph Johansen agreed to a judgment being entered by the Probate Court on December 24, 2001 (the "Judgment") (Please see Exhibit 4).

13. The Judgment required Ralph Johansen to "forthwith execute a quitclaim deed transferring all of his interest in the former marital home located in Stoneham to the Wife.

14. The Judgment required Ms. Johansen to release all claims that she had to her former spouses' pension plan assets.

15. On January 4th, 2002 Mr. and Ms. Johansen executed a deed to Ms. Johansen (the "Deed").

16. On December 11, 2002, the Deed was recorded by the Commonwealth of Massachusetts' Registry of Deeds for Middlesex County. (Please see Exhibit 5.)

17. On December 18, 2002, a Notice of Federal Tax Lien on the property of Ralph Johansen was recorded by the Commonwealth

of Massachusetts' Registry of Deeds for Middlesex County. (Please see Exhibit 6.)

19. On January 31, 2004 a Notice of Federal Tax Lien stating that Marlene Johansen was a Nominee of Ralph Johansen was recorded by the Commonwealth of Massachusetts' Registry of Deeds for Middlesex County (the "Nominee Lien") (Please see Exhibit 7.)

20. The Nominee Lien creates a cloud on the title of the Home.

21. The Nominee Lien effects a detriment to Marlene's creditworthiness.

22. Marlene Johansen has been damaged by the Service's unlawful lien.

23. Ms. Johansen has exhausted all administrative remedies.

24. Ms. Johansen has incurred and continues to incur attorney's fees in this action. She is entitled to an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 USC Sec. 2412 (b) and IRC Sec. 7430.

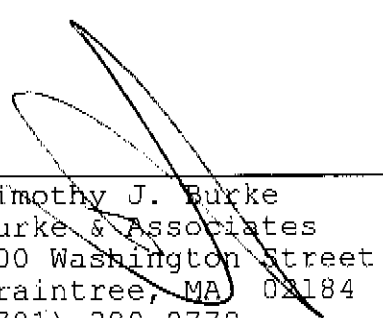
WHEREFORE, for the foregoing reasons, the Plaintiff prays this honorable Court to grant the following relief:

- a. Judgment against the defendant holding that the Lien filed against Ms. Johansen is erroneous.
- b. Award the Plaintiff's attorney's fees and costs pursuant to 28 USC Sec. 2412(b) and IRC Sec. 7430; and,
- c. Any and all other remedies that this honorable court deems appropriate.

Trial by Jury

The plaintiff requests a trial by jury.

Date: August 16, 2004



Timothy J. Burke
Burke & Associates
400 Washington Street
Braintree, MA 02184
(781) 380-0770
BBO# 543837

EXHIBIT 1

3K15490PG426

1125

We, Frank Frongillo and Gail E. Frongillo, husband and wife, ~~as tenants~~
by the entirety

of Stoneham, Middlesex

County, Massachusetts

~~being married~~, for consideration paid, grant to Ralph E. Johansen and Marlene E.
Johansen, husband and wife, as tenants by the entirety

of 71 Pleasant Street, Stoneham, Middlesex / ~~County, Massachusetts~~
with quitclaim tenants

the land in Stoneham, Middlesex County, Massachusetts, with the buildings
thereon standing, situated on the Western side of Pleasant Street,
~~Stoneham, Middlesex County, Massachusetts~~

bounded and described as follows:

Being shown as Lot number 1 on a "Plan of Lots in Stoneham, Mass.,
surveyed for Daniel S. Davis, June 1919, Parker Holbrook, Surveyor,
recorded with Middlesex South District Deeds Plan Book 279, Plan 1.

Said granted premises contain 7,886 square feet, more or less, and are
bounded:

EASTERLY by said Pleasant Street, 87 feet;

SOUTHERLY by Lot E as shown in Plan Book 282, Plan 16, land formerly
of Peffers, 137.23 feet;

WESTERLY by Pleasant Street Terrace, so-called, 92 feet; and

NORTHERLY slightly Northeasterly, by land now or formerly of Newcomb,
being Lot numbered 2 on the first above mentioned Plan
108.48 feet.

Being Parcel number 4 as described in deed of Florence A. Peffers to
Peffers, et al, dated January 5, 1945, recorded with said Deeds in
Book 6837, Page 118; this conveyance being subject to water and
sewer rights for the benefit of Lots 3 and 4 on said first mentioned
Plan, as fully described, Book 4341, Pages 38 and 42, said Register
of Deeds.

For Grantors' title see Deed recorded Book 12225, Page 091, with said
Registry.

The consideration for this Deed is \$120,000.00

~~reconsideration~~

Witness our hands and seal this 27th day of March 1984

Frank Frongillo
Gail E. Frongillo

The Commonwealth of Massachusetts

Middlesex,

ss.

March 27, 1984

Then personally appeared the above named Frank Frongillo and Gail E. Frongillo
and acknowledged the foregoing instrument to be their free act and deed, before me

(Frank M. Geremonte)

Notary Public - ~~James M. Geremonte~~

My commission expires March 30, 1984

71 Pleasant Street, Stoneham, Mass.

EXHIBIT 2

PROBATE AND FAMILY COURT DEPARTMENT

MIDDLESEX, SS.

NO. 98D4536-DV1

MARLENE JOHANSEN, Plaintiff-in-Counterclaim

v.

RALPH JOHANSEN, Defendant-in-Counterclaim

JUDGMENT OF DIVORCE NISI

All persons interested having been notified in accordance with law and after hearing it is adjudged nisi that a divorce from the bond of matrimony be granted the said plaintiff-in-counterclaim for the cause of irretrievable breakdown of marriage as provided by c. 208, sec. 1B and that upon the expiration of ninety days from entry of this judgment it shall become and be absolute unless, upon the application of any person within such period, the Court shall otherwise order, and it is further ordered that:

1. The defendant-in-counterclaim shall pay to the plaintiff-in-counterclaim the sum of \$350.00 per week as alimony. Payments hereunder shall be paid until the death of either party, the plaintiff-in-counterclaim's remarriage or until modified by the Court, whichever event is the first to occur.
2. The defendant-in-counterclaim shall forthwith file with the appropriate taxing authorities Federal income tax returns for calendar years 1995 through 1998 and Massachusetts income tax returns for calendar years 1993 through 1998 and shall, as soon as possible, enter into negotiations with both taxing authorities to obtain a settlement due each. He shall provide the plaintiff-in-counterclaim with documentation as to the agreement, if any, reached with both taxing authorities.
3. The parties shall immediately list the former marital home, located at 71 Pleasant Street, Stoneham, Massachusetts, for sale with a mutually agreed to broker, at a listing price suggested by the broker. Both parties will cooperate promptly with all necessary requirements to effectuate a prompt sale, including executing documents such as listing agreements, offer and acceptance and purchase and sale agreements. They will adjust the asking price as necessary, based on the recommendations of the broker and will accept any reasonable offer.

- Case 1:04-cv-11789-BCL Document 1 Filed 08/17/2004 Page 10 of 34
4. Upon sale, the net proceeds will be paid to Phyllis K. Kolman, as attorney for the defendant-in-counterclaim, to be held by her in an escrow account for the purpose of paying the parties' outstanding Federal and State income tax liability for the years 1993 through 1998. Any interest earned shall be added to the escrow account with each party responsible for any income taxes due on their respective fifty percent (50%) share of any interest income reported in that year. Net proceeds are defined as follows: sales price less broker's commission, first mortgage balance, equity loan balance and the usual and necessary costs of closing.
 5. Once the net proceeds are deposited into the escrow account, counsel for each party shall receive a distribution for counsel fees in the amount of \$8,000.00 each. Each party shall be solely responsible for payment of any legal fees each has incurred in excess of that amount. The defendant-in-counterclaim's accountant shall estimate the amount of capital gains tax due on account of deductions taken on the rental half of the marital home and that amount shall also be held by defendant-in-counterclaim's counsel and utilized to pay said capital gains tax in the year the house is sold. The remainder of the escrow account shall be held by defendant-in-counterclaim's counsel pending acceptance by the Internal Revenue Service and the Massachusetts Department of Revenue of a settlement offer.
 6. If the Offer in Compromise for both Federal and State income taxes for the years 1993 through 1998 is less than the available remaining proceeds, any funds remaining shall be divided equally between the parties and distributed to them once the Offer in Compromise is accepted.
 7. If the Offer in Compromise accepted by the taxing authorities is more than the amount in the escrow account, the defendant-in-counterclaim shall enter into a payment plan with the taxing authorities for any additional amount(s) they require. Once that amount has been determined, the defendant-in-counterclaim shall be entitled to a weekly reduction in the amount of alimony paid to the plaintiff-in-counterclaim until such time as he has recouped one-half (1/2) of the additional amount(s) required to satisfy the taxing authorities. The amount of said deduction shall be the lesser of \$50.00 per week or one-half (1/2) of the amount paid by the defendant-in-counterclaim per week under the payment plan.

8. Until the house is sold, the plaintiff-in-counterclaim shall continue to be responsible for all payments associated with the property, including but not limited to mortgage payments, both principal and interest, real estate taxes, utilities, insurance and routine maintenance and repairs. If any of these payments are in arrears at the closing date for sale of the property, the defendant-in-counterclaim shall be entitled to reimbursement from the plaintiff-in-counterclaim for any arrears deducted from the net proceeds, it being the plaintiff-in-counterclaim's responsibility to keep these liabilities current. The parties shall attempt to agree on the plaintiff-in-counterclaim's repayment schedule; failing such an agreement, the defendant-in-counterclaim shall be entitled to file a Complaint for Contempt to obtain the amount due him. Until sale of the property, the plaintiff-in-counterclaim shall continue to receive the rental income derived from the property.
9. The defendant-in-counterclaim shall cause to be prepared a Qualified Domestic Relations Order or other appropriate document as required by the Canadian government to equally divide the coverage portion of the defendant-in-counterclaim's defined benefit pension plan as of the date of trial. Additionally, the defendant-in-counterclaim shall elect the joint and survivor annuity option under said pension plan.
10. The defendant-in-counterclaim shall provide health insurance for the plaintiff-in-counterclaim for so long as he can keep her on his present family plan. When he can no longer do so, the plaintiff-in-counterclaim may elect COBRA benefits or obtain her own health insurance either directly or through her employment. In either case, the plaintiff-in-counterclaim shall be responsible for this expense.
11. Each party shall pay his or her own uninsured medical and dental expenses.
12. For so long as he has an alimony obligation to the plaintiff-in-counterclaim, the defendant-in-counterclaim shall name the plaintiff-in-counterclaim as beneficiary of life insurance on his life in an amount not less than \$200,000.00.
13. The defendant-in-counterclaim shall be entitled to retain as his sole property his whole life insurance policy, the cash surrender value of which is \$2,510.00.
14. The defendant-in-counterclaim shall retain as his sole property his Dodge Caravan motor vehicle and shall continue to be responsible for all costs associated with said motor vehicle.
15. The plaintiff-in-counterclaim shall have sole use of the Mazda Miata motor vehicle which she currently leases and shall continue to be responsible for all costs associated with said motor vehicle.

16. Case 1:09-cv-01789-RJC Document 1-1 Filed 03/17/2009 Page 12 of 34
The plaintiff-in-counterclaim shall retain as her sole property her John Hancock IRA valued at \$2,400.00.


17. The plaintiff-in-counterclaim is hereby awarded \$6,200.00 from the defendant-in-counterclaim's John Hancock IRA which is valued at \$14,883.73. The defendant-in-counterclaim shall take all steps necessary to effectuate a tax-free transfer of said sum to the plaintiff-in-counterclaim. The balance of the funds in the defendant-in-counterclaim's John Hancock IRA shall be retained by him as his sole property.

18. The parties shall each retain their respective bank accounts as their sole property.

19. The plaintiff-in-counterclaim shall retain her jewelry as her sole property.

20. The defendant-in-counterclaim shall have the right, within two (2) weeks of this Judgment, to go through the former marital home, accompanied by his counsel or an individual associated with said counsel's law firm, on a date and time convenient to the plaintiff-in-counterclaim, and designate those items of his personal papers and possessions, household furniture and furnishings and all other contents of the home which he would like to remove and retain as his property. If the parties cannot agree as to any of the items which the defendant-in-counterclaim wishes to remove, the parties shall confer with Myra S. Lyons, Esquire of Melrose, Massachusetts who is appointed Special Master for the purpose of mediating any dispute involving personal property. The Special Master shall be paid equally by the parties at her usual and customary hourly rate. In the event that the Special Master is unable to resolve the matter, either party may bring the matter back to Court. If the Court finds that either party has acted arbitrarily, capriciously or in bad faith, the entire cost of such subsequent proceedings, including the fees of the Special Master, shall be borne by that party. Once the parties have agreed as to which items shall be removed by the defendant-in-counterclaim, he shall remove those items within two (2) weeks on a mutually convenient date and time. The remainder of the household contents shall be the sole property of the plaintiff-in-counterclaim.

March 21, 2001
Date:


Mary Anne Sabagian, Justice
Probate and Family Court

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

MIDDLESEX, SS.

NO. 98D4536-DVI

RALPH JOHANSEN, Plaintiff *

v. *

MARLENE JOHANSEN, Defendant *

MARLENE JOHANSEN, Plaintiff-in-Counterclaim *

v. *

RALPH JOHANSEN, Defendant-in-Counterclaim *

FINDINGS OF FACT ON COMPLAINT FOR DIVORCE FILED DECEMBER 4, 1998
AND ON COUNTERCLAIM FOR DIVORCE FILED JANUARY 21, 1999

E. PROCEDURAL HISTORY

1. The Husband filed a Complaint for Divorce on December 4, 1998 in the Middlesex Division of the Probate and Family Court Department, Docket No. 98D4536-DVI.
2. The Wife filed an Answer and Counterclaim on January 21, 1999 in the Middlesex Division of the Probate and Family Court Department, Docket No. 98D4536-DVI.
3. The grounds for the original Complaint are irretrievable breakdown of marriage pursuant to M.G.L. Chapter 208, section 1B.
4. The grounds for the Counterclaim are irretrievable breakdown of marriage pursuant to M.G.L. Chapter 208, section 1B.

5. On March 8, 1999, the Wife filed Motions for Temporary Support and for Provision of an Automobile. On April 9, 1999, the Court (Gibson, J.) entered a Temporary Order that provided for the Husband to pay to the Wife the sum of \$515.00 per week as alimony; for the Husband to maintain the Wife on his health insurance; for the Husband to maintain the Wife as beneficiary of his life insurance; and for the Husband to do all things necessary to enable the Wife to lease a new motor vehicle and to pay any fees due at the lease renewal or inception, after which the Wife was responsible for all lease payments and regular operating expenses.

6. This matter was pre-tried on October 5, 2000.

7. This matter was tried on January 26, 2001 before Sahagian, J.

F. BASIC FACTUAL INFORMATION

8. The Husband and Wife were married at Boston, Massachusetts on November 29, 1980.

9. This is the second marriage of the Wife.

10. This is the first marriage of the Husband.

11. No children were born of the marriage although the Wife's daughter from her first marriage resided with the parties.

12. The parties last lived together at Stoneham, Massachusetts on or about October 13, 1997.

13. The Wife resides at 71 Pleasant Street, Stoneham, Massachusetts.

14. The Husband resides at 5 Snakebrook Road, Wayland, Massachusetts.

C. AGE

15. The Wife was born on January 31, 1949 and is fifty-two (52) years of age.

16. The Husband was born on February 1, 1948 and is fifty-three (53) years of age.

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25. The Wife does not own a motor vehicle. She values the contents of the home and her jewelry at \$2,500.00.

26. The Husband drives a 2000 Dodge Caravan motor vehicle standing in his name. He values this vehicle at \$15,130.00 and the vehicle is encumbered by a loan in the amount of \$17,568.46.

27. The Wife has the following intangible property:

John Hancock IRA	\$2,400.00
------------------	------------

28. The Husband has the following intangible property:

Sovereign Bank account	\$5,769.13
John Hancock IRA	\$14,883.73
John Hancock Whole Life policy	\$2,510.00
Canadian government defined benefit pension with an uncertain value	

H. LIABILITIES

29. The joint secured liabilities of the parties are the two (2) mortgage loans set forth above in paragraph 24 of these Findings of Fact.

30. The Wife has the following unsecured liabilities:

Optima credit card	\$3,900.00
American Express credit card	\$5,000.00

31. The Husband has the following unsecured liabilities:

Sovereign Bank cash reserve	\$4,000.00
Fleet Bank personal loan	\$1,232.00
AAA Financial credit card	\$5,311.04
American Express credit card	\$5,000.00
Internal Revenue Service	\$171,379.00
Mass. Dept. of Revenue	\$28,333.00

Additionally, the Husband owes an undetermined amount for 1993 and 1994 State income taxes.

I. NEEDS OF THE PARTIES

32. The Wife's weekly expenses individually total \$1,039.00.

33. The Husband's weekly expenses individually total \$991.89.

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

CLIENT'S COPY
01-J-294

RALPH JOHANSEN

VS.

MARLENE JOHANSEN.

ORDER

Paragraphs 3-7 of the divorce judgment dated March 21, 2001 are stayed pending determination of the defendant's appeal. Whether the defendant's interest may be reached by the IRS may involve additional issues not determined or determinable by the Probate Court.

So ordered.

By the Court (Dreben, J.),

Arena M. Wong
Assistant Clerk

Entered: June 7, 2001

responsibility for paying the income tax debt through tax year 1998. Since the Court ordered the Husband to pay alimony commencing in April, 1999, the 1999 income tax liability should be borne by the Husband individually. The only real asset that the parties have, other than the Husband's defined benefit pension plan, is the marital home which has equity of approximately \$172,387.00.

Given the circumstances in this case, it is appropriate to utilize the Husband's pension as a future income stream. Dewan v. Dewan, (I), 17 Mass.App.Ct. 97 (1983). Although the Wife presented testimony as to the pension's present value, the Wife's expert acknowledged that he did not take into account the marital coverture reduction nor the joint and survivor annuity reduction which the Husband has voluntarily agreed to elect. The expert did testify that his opinion of value would be higher since there was a portion of the Husband's pension that he was unable to value. However, the erroneous assumptions made by the Wife's expert render his opinion meaningless. Moreover, even if an accurate present day value had been obtained, to offset the value of the Husband's pension against the equity in the marital home would result in an inequitable division of the parties' assets and liabilities.

Unfortunately, the only asset available to the parties to address the enormous tax liability is the marital home. Accordingly, the home must be sold and the proceeds utilized for this purpose.

Although the Husband seeks additional credits for the consumer debt of the Wife which he has paid down, the Court is not inclined to grant this credit.

Given the disparity in the parties' incomes and earning capacities, the Wife will require ongoing support from the Husband, albeit at a rate which is less than that awarded to her at the Temporary Order hearing of April, 1999. The Husband has life insurance available to him and the Court will require that this insurance be used to secure his alimony obligation.

CONCLUSIONS OF LAW

The Court has broad discretion to divide the marital estate between the parties. Mahoney v. Mahoney, 425 Mass. 441 (1997). In doing so, the Court must take into account the various factors of M.G.L. c. 208, sec. 34. Gustin v. Gustin, 420 Mass. 854 (1995). "The equitable factors which are to be considered under Section 34 reflect a view of marriage as an implied partnership for the purpose of distribution of property." Savides v. Savides, 400 Mass. 250, 252 (1987). This implied partnership extends to the division of liabilities as well as assets, since both comprise the marital estate. Talbot v. Talbot, 13 Mass.App.Ct., 456 (1982); Courmoyer v. Courmoyer, 40 Mass.App.Ct. 302 (1996) (husband's tax liabilities considered by the Court). The weight given to the Sec. 34 factors is to be determined by the trial judge. Rice v. Rice, 372 Mass. 398, 400-401 (1977).

Case 1:04-cv-11789-BGL Document 1 Filed 08/17/2014 Page 10 of 34
In dividing pension benefits, the Court can order an appropriate portion of each pension payment as it is paid. Dewan v. Deewan (I), 17 Mass.App.Ct. 97 (1983). In long-term marriages, "the appropriate method of dealing with pension rights in the context of equitable division must be determined by the circumstances of the particular case." Id. At 102. The Court should also consider how much of the pension was earned during the marriage (the coverture portion). Peterson v. Peterson, 30 Mass.App.Ct. 932,933 (1991). Any division of the pension should not include benefits acquired after the date of trial, the marital partnership having ended. Daugherty v. Daugherty, 50 Mass.App.Ct. 738 (2001).

March 21, 2001

Date



Mary Anne Sahagian, Justice
Probate and Family Court

EXHIBIT 3

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

CLIENT'S COPY
01-J-294

RALPH JOHANSEN

vs.

MARLENE JOHANSEN.

ORDER

Paragraphs 3-7 of the divorce judgment dated March 21, 2001 are stayed pending determination of the defendant's appeal. Whether the defendant's interest may be reached by the IRS may involve additional issues not determined or determinable by the Probate Court.

So ordered.

By the Court (Dreben, J.),

Jenna M. Wong
Assistant Clerk

Entered: June 7, 2001

EXHIBIT 4

COMMONWEALTH OF MASSACHUSETTS

Middlesex,ss.

PROBATE COURT

NO. 98D4536-DV1

Marlene Johansen, Plaintiff

v.

Ralph Johansen, Defendant

MODIFICATION JUDGMENT

This action came on hearing before the Court, at Cambridge

Beverly Weinger Boorstein, J. presiding, and the issues having been

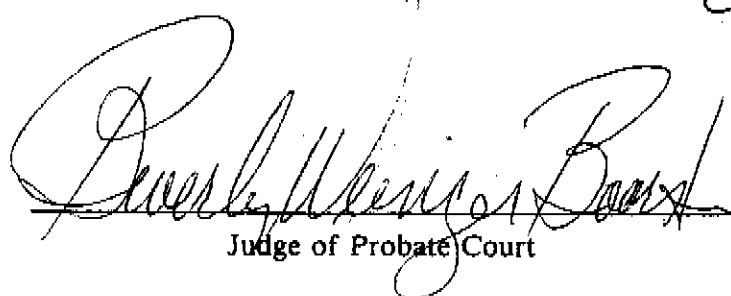
heard and findings having been duly rendered,

It is Ordered and Adjudged:

The Judgment of Divorce Nisi dated March 21, 2001 be so modified in accordance with the terms of an Agreement dated December 24, 2001 filed, incorporated and not merged in this Judgment but nevertheless shall survive and have independent legal significance, except for alimony issues which shall merge. The parties are ordered to comply with the terms thereof. In all other respects the Judgment dated March 21, 2001 remains in full force and effect.

DEC 24 2001

Date


Judge of Probate Court

COMMONWEALTH OF MASSACHUSETTS

THE TRIAL COURT
PROBATE & FAMILY COURT

MIDDLESEX SS

DOCKET NO. 98D-4536-DV1.

Marlene Johansen

PLAINTIFF

STIPULATION/AGREEMENT
OF PARTIES

Ralph Johansen

VS

DEFENDANT

IT IS HEREBY AGREED/~~STIPULATED~~ THAT THE FOLLOWING SHALL BE MADE AN ORDER OF JUDGEMENT OF THIS COURT

1. Marlene Johansen ~~forthwith~~ shall withdraw or request dismissal of her appeal of the Judgment Nisi of Divorce, Docket No. 01-3-294, No 98D-4536-DV1 in Middlesex Probate & Family Court. Neither party shall file any further appeals as to any aspect of the divorce judgment or this Agreement for Judgment, dated December 24, 2001.
2. Ralph Johansen shall ~~forthwith~~ execute a quitclaim deed transferring all of his interest in the former marital home located in ~~Stoughton~~ to the wife. His attorney shall hold the deed in escrow pending notification from the appellate court that the appeal is dismissed, at which time she shall immediately turn over the deed to Marlene Johansen's attorney. She continues to be responsible for all expenses of the property except the equity line.
3. Ralph Johansen shall forthwith ensure that said equity line is paid in full.
4. ~~Commencing forthwith~~ * Ralph Johansen shall commence paying Marlene Johansen a sum of \$400.00 per week as alimony, to be paid to her and her attorney by check on their day returns, payable until the date of the death of ~~Marlene Johansen~~.

af
me

PLAINTIFF

DEFENDANT

PLAINTIFF'S ATTORNEY

DEFENDANT'S ATTORNEY

DATE

DATE

* Payment due Friday 12/28/01 af.

(Continued from the other side)

either party or marriage of Marlene Johansen.

5. Marlene Johansen hereby waives her claim to any portion of the husband's retirement ~~including any claim to all income~~ Ralph Johansen shall derive therefrom in future and/or ^{value} accrued post-divorce, in

net of
both
segments
(RPP+QPP)
or any
other
future
pension
designation
all of
which
has been
disclosed

6. Ralph Johansen shall be solely responsible for payment of taxes, interest and penalties to the IRS and/or DOR due as a result of his non-filing of tax returns for the years set forth in the divorce judgment, paragraph 2 and he shall hold harmless Marlene Johansen for any liability as a result of said returns.

7. This agreement supersedes paragraphs 1 and 2 and paragraphs 3, 4, 5, 6, and 7 and further eliminates paragraph 8 and 9 since the marital home is being transferred to the wife. Marlene Johansen and Ralph Johansen retains all benefits relative to his retirement. Paragraph 20 of the Judgment Nisi is also ^{deleted} ~~superseded~~ by this Agreement.

8. Except as set forth herein the parties reaffirm the Judgment Nisi of Divorce dated March 21, 2001.

9. This Agreement shall be entered for Judgment on Marlene Johansen's Complaint for Contempt's ^{penalty portion} but Ralph Johansen shall not be adjudged in contempt.

10. Each party shall be solely responsible for his and her attorney's fees and neither shall seek payment from the other for said fees.

PLAINTIFF

PLAINTIFF'S ATTORNEY

DATE

DEFENDANT

DEFENDANT'S ATTORNEY

WITNESS

EXHIBIT 5

2



8k: 37309 Pg: 409

Recorded: 12/09/2002

Document: 00001481 Page: 1 of 2

QUITCLAIM DEED

71 Pleasant Street, Stoneham, Massachusetts.

RALPH E. JOHANSEN and MARLENE E. JOHANSEN, husband and wife, as tenants by the entirety, for \$1.00 and other nominal consideration, pursuant to a Modification Agreement dated December 24, 2001, Docket No. 98D-4536-DV1) grant to MARLENE E. JOHANSEN, individually, 71 Pleasant Street, Stoneham, Middlesex County, Massachusetts with quitclaim covenants:

The land in Stoneham, Middlesex County, Massachusetts, with the buildings thereon standing, situated on the Westerly side of Pleasant Street, bounded and described as follows:

Being shown as Lot number 1 on a "Plan of Lots in Stoneham, Mass., surveyed for Daniel S. Davis, June 1919, Parker Holbrook, Surveyor", recorded with Middlesex South District Deeds Plan Book 279, Plan 48.

Said granted premises contain 7,886 square feet, more or less, and are bounded:


EASTERLY by said Pleasant Street, 87 feet;
 SOUTHERLY by Lot E as shown in Plan Book 282, Plan 16, land formerly of Peffers, 137.23 Feet;
 WESTERLY by Pleasant Street Terrace, so-called, 92 feet; and
 NORTHERLY slightly Northeasterly, by land now or formerly of Newcomb, being Lot numbered 2 on the first above mentioned Plan, 108.48 feet.

Being Parcel number 4 as described in deed of Florence A. Pike to Peffers, et al, dated January 5, 1945, recorded with said Deeds in Book 6837, Page 118; this conveyance being subject to water and sewer rights for the benefit of Lots 3 and 4 on said first mentioned Plan, as fully described, Book 4341, Pages 38 and 42, said Registry of Deeds.

For Grantors' title see Deed recorded Book 15494, Page 428 with said Registry.

WITNESS OUR HANDS AND SEALS THIS 14th JANUARY, 2002.


 RALPH E. JOHANSEN


 MARLENE E. JOHANSEN

71 PLEASANT - ST.
 STONEHAM MASS 01469

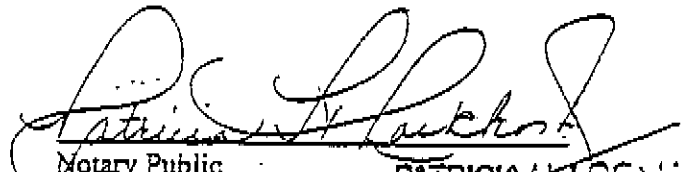
1461 45.00 03:54:09 12/09/02

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

January 4, 2002

Then personally appeared the within named RALPH E. JOHANSEN and acknowledged that he signed the foregoing instrument of his free act and deed for the purposes therein set forth, before me.


Notary Public
My Commission expires:

PATRICIA H. MCCANN
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 1, 2003

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

January 31, 2002

Then personally appeared the within named MARLENE E. JOHANSEN and acknowledged that she signed the foregoing instrument of her free act and deed for the purposes therein set forth, before me.

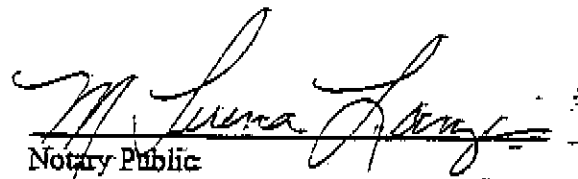

Notary Public
My Commission expires: 2-8-2002

EXHIBIT 6

2212		Department of the Treasury - Internal Revenue Service			
Form 668 (Y)(c) (Rev. October 2000)		Notice of Federal Tax Lien			
Area: SMALL BUSINESS/SELF EMPLOYED AREA #1 Lien Unit Phone: (617) 316-2575		Serial Number 40215883		For Optional Use by Recording Office	
As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.					
Name of Taxpayer RALPH E JOHANSEN					
Residence 71 PLEASANT STREET STONEHAM, MA 02180					
IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refilled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1995	337-40-7502	05/14/2001	06/13/2011	32866.16
1040	12/31/1996	337-40-7502	06/04/2001	07/04/2011	29435.22
1040	12/31/1997	337-40-7502	05/21/2001	06/20/2011	36820.51
1040	12/31/1998	337-40-7502	04/30/2001	05/30/2011	51836.15
1040	12/31/1999	337-40-7502	04/30/2001	05/30/2011	19286.58
1040	12/31/2000	337-40-7502	05/28/2001	06/27/2011	14559.02
Place of Filing Registry of Deeds Southern Middlesex County E. Cambridge, MA 02141					Total \$ 184803.64

This notice was prepared and signed at Boston, MA, on this, ---

the 21st day of November, 2002.

Signature for KELLY DIAZ	Title REVENUE OFFICER (781) 835-4207	21-04-3925
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(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien.
Rev. Rul. 71-466, 1971-2 C.B. 409)

Bk: 37407 Pg: 522
Recorded: 12/18/2002
Document: 00000765 Page: 1 of 1



2261		Department of the Treasury - Internal Revenue Service			
Form 668 (Y)(c) (Rev. October 2000)		Notice of Federal Tax Lien			
Area: SMALL BUSINESS/SELF EMPLOYED AREA #1 Lien Unit Phone: (617) 316-2575		Serial Number 153799904		For Optional Use by Recording Office	
<p>As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.</p>					
Name of Taxpayer: MARLENE E JOHANSEN AS NOMINEE OF RALPH E JOHANSEN					
Residence: 71 PLEASANT STREET STONEHAM, MA 02180					
IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refilled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refilling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1995	337-40-7502	05/14/2001	06/13/2011	32866.16
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1040	12/31/1997	337-40-7502	05/21/2001	06/20/2011	36820.51
1040	12/31/1998	337-40-7502	04/30/2001	05/30/2011	51836.15
1040	12/31/1999	337-40-7502	04/30/2001	05/30/2011	19286.58
1040	12/31/2000	337-40-7502	05/28/2001	06/27/2011	14559.02
Place of Filing: Registry of Deeds Southern Middlesex County E. Cambridge, MA 02141					Total \$ 184803.64
This notice was prepared and signed at <u>BOSTON, MA</u> on this					
the <u>27th</u> day of <u>January</u> , 2004.					
Signature: <i>Jane Finnegan</i> for KELLY DIAZ			Title: REVENUE OFFICER (781) 835-4207		
(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien Rev. Rul. 71-458, 1971-2 C.B. 409)					

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Johanan V. USA

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.



IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). (IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.)

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME James R. BarryADDRESS 700 Washington St., Boston, MATELEPHONE NO. 781-300-0771

(Cover sheet local.wpd - 11/27/00)

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Marlene Johanson

(b) County of Residence of First Listed Plaintiff Middlesex
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

United States of America

County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Timothy Burke
400 Washington Street
Braintree, Ma 02184

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5 DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 160 Medicare Act <input type="checkbox"/> 170 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 180 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395M) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 480 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Force Majeure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 US. C. 2410 & 28 USC Section 1340

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAJ. JUDGE

JS 44 Reverse (Rev. 12/96)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44**Authority For Civil Cover Sheet**

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b.) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States, are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a) Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

BURKE & ASSOCIATES
ATTORNEYS AT LAW

400 Washington Street, Suite 303, Braintree, MA 02184
Telephone (781) 380-0770 ■ Facsimile (781) 848-0330
www.burkelaw.us

August 16, 2004

Tony Anastas, Clerk
U.S. District Court for
the District of Massachusetts
1 Courthouse Way
Boston, MA 02110

Re: Marlene Johansen v. The United States

Dear Mr. Anastas:

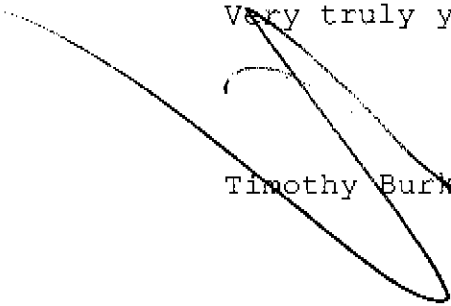
Enclosed please find the Plaintiff's Complaint and Civil
Action Coversheet in the above entitled matter.

Also enclosed please find the filing fee in the amount of
\$150.

Thank you for your assistance in this matter.

If you have any questions, do not hesitate to contact me.

Very truly yours,



Timothy Burke

Enclosures
cc. Client